

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,)	CASE NO. 8:20CR38
Plaintiff,)	
)	
v.)	DEFENDANT'S MOTION TO
)	SUPPRESS EVIDENCE AND
JACOB A. BRUN,)	REQUEST FOR HEARING
Defendant.)	
)	
)	

The Defendant, Jacob A. Brun, moves the Court to suppress any evidence found during the warrantless search of a home on K Street in Omaha, Nebraska on December 19, 2019. This search -- made without probable cause, reasonable suspicion, or a warrant -- was of a place in which Jacob A. Brun maintained a reasonable expectation of privacy.

Mr. Brun states upon information and belief:

1. On November 1, 2018, Jacob A. Brun received a sentence of eighteen (18) months of supervised probation in Douglas County (NE) District Court in Case No. 18-3204. Of the conditions imposed upon Brun, one required him to “[s]ubmit to reasonable search and seizures of his person, home, and vehicle by all law enforcement and probation officers.” The order setting his probation terms noted that “[u]pon violation of any condition of probation, the defendant may be brought before the Court for further proceedings as provided by law.”
2. On October 11, 2019, a judge in Douglas County issued an arrest

warrant for Mr. Brun in Case No. 19-23592 for misdemeanor operating a motor vehicle to avoid arrest. Based upon that allegation and others, on November 8, 2019, the Douglas County Attorney's Office filed a motion to revoke Mr. Brun's probation in Case No. 18-3204. Four days later, on November 12, 2019, the Douglas County District Court, citing Brun's failure to appear that day, issued an arrest warrant in Case No. 18-3204.

3. On December 19, 2019, deputies with the Douglas County Sheriff's Office reported seeing Mr. Brun leaving a home on K Street in Omaha, Nebraska. As two deputies arrived on K Street, Brun was spotted driving a gray Honda Accord west. With the deputies blocking K Street, Brun placed the Accord in reverse and backed down the street. With the deputies following him, Brun backed the Accord down 41st Avenue. The deputies arrested Brun near the intersection of 41st Avenue and J Street at 10:45 a.m.
4. After arresting Brun, the deputies returned to the K Street home and awaited the arrival of representatives from the state probation office.
5. At 11:05a.m., two probation officers arrived and entered the home on K Street with sheriff's deputies to conduct a "probation search." A firearm – named in Count VI of the Superseding Indictment – was found. Drugs

– the subject of Count V – and other items of evidentiary value were also found.

6. The probation officers and sheriff's deputies did not have a warrant to search the home on K Street. They also lacked probable cause or reasonable suspicion to search the home on K Street.
7. The sheriff's deputies used the state probation officers as a "stalking horse" in order to circumvent warrant requirement of the Fourth Amendment.
8. The terms of Brun's probation subjected him to revocation of his supervision for failure to submit to reasonable searches; the terms did not authorize *carte blanche* searches.
9. Brun was not, at the time the search took place, under the supervision of the probation office or subject to those conditional release terms.
10. The search of the home was not limited to areas where evidence of a probation violation might be found.

WHEREFORE, the Defendant Jacob A. Brun asks the Court to grant this motion, prohibiting the government from using against him the evidence found inside the private residence on K Street. Jacob Brun leaves the United States to its burden of proving compliance with the Fourth Amendments, but requests an evidentiary hearing. Mr. Brun anticipates that such a hearing would not last more

than one-half day. A brief in support of this motion will be filed (nearly) simultaneously.

JACOB A. BRUN, Defendant,

By: /s/ Richard H. McWilliams

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CERTIFICATE OF SERVICE

I hereby certify that on August 25, 2020, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which sent notification of such filing to the following:

Lesley Woods
Assistant United States Attorney
1620 Dodge Street
Omaha, NE 68102

s/ Richard H. McWilliams